Applicants respectfully submit that claims 1-10, 18-20,and 22-27 as amended above are not rendered obvious by the NSP reference in consideration with the CDMA reference for the following reasons.

The NSP reference involves retrofitting existing electric and gas meters with radio transmitters that communicate with the utility using a client/server network architecture (page 1, lines 37-37). It states that the data will be collected and moved across the digital radio networks to a UNIX-based, object oriented database (page 1, lines 45 to 47). Hence, the system proposed by the NSP reference is a digital networks system that automatically collects energy usage data of homes.

The CDMA reference, on the other hand, discloses a proposal to handpick several hundred customers, based on their usage patterns, and offer them CDMA upgrades, which is basically a conversion from analog network telephony to digital network telephony. (page 1 lines 35 to 37). The upgrade being a conversion from analog to digital is indicated on page 1, lines 39 to 41, where vice president of AirTouch Cellular, Craig Farrill, proclaimed that the upgrade "is much of a digital transition." Also, on page 1, lines 43 to 45, Farrill stated that the network structure equipment adopted by AirTouch "provides voice quality comparable with or better than analog." Farrill further stated that "[t]he carrier's goal is to move 14% of its analog customers to CDMA by the end of the first quarter of 1997...." (page 2, lines 1 to 2).

Applicants respectfully submit that a person of ordinary skill in the art at the time of the present invention would not have been motivated to combine these references. The NSP reference discloses a "digital radio networks" as the basis for its system. In view of this, the proposal in the CDMA reference to upgrade the system from an analog system to a digital system has no relevance to the digital system as disclosed by the NSP reference. A person of ordinary skill in the art has no motivation to combine the two references. Also, there are no teachings or suggestions in both references to combine or modify their teachings to come up with the present invention as claimed in the pending claims. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to the one of ordinary skill in the art. *In re Fine*, 837 F2.d 1071 (Fed. Cir. 1988). To argue that the references do motivate a person of

ordinary skill in the art to combine the references is to exercise impermissive hindsight by using Applicants' claims as blueprints to reconstruct the present invention from the prior art references. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132 (Fed. Cir. 1985). For the foregoing reasons, Applicants respectfully request withdrawal of the 35 USC 103(a) rejection against claims 1-10, 18-20, and 22-27.

As per claim 1, NSP discloses a computer-based system which gathers real-time energy usage information from electric meters and gas meters located at consumer premises. The system obtains these information through radio transmitters that communicate usage information to NSP system controller which will make the data available on a database that can be accessed via utility gateways. "The detailed data collected will enable NSP to examine specific information about customers' energy usage and determines which additional value added products and services to offer customers through full scale network information services. Note page 1 of the article. While the phrase providing users "product function an availability of said greater functionality" is not explicitly stated, it would have been obvious to the skilled artisan that the users of gas or electric services would not be changed. The value added products or services would have been greater functionality of the current products or services which the consumers currently subscribe for. In any event, CDMA discloses the release of upgraded cellular services and greater cellular communications functionality to customers of AirTouch Commnications, Inc. based on usage patters. Note page 1 of the article, lies 35-41. It would have been obvious to one of ordinary skill in the art of resources management to modify NSP with the patterned upgrade offering method of CDMA. One would have been motivated to do so in order to provide customers with full capability of a product or services for which is deemed necessary to their usages.

Applicants respectfully submit that claim 1 as amended is not rendered obvious by the NSP reference in consideration with the CDMA reference for the foregoing reason. It also is not obvious for the following reasons. The NSP reference describes a system that allows collection of energy usage data automatically but is completely silent as to how these data are analyzed. On page 1, line 41, the reference simply states that data are available on the database, and on page 1, line 47 to 49 it merely states that the data collected will enable Northern State Power Co. to examine specific information about its customer's energy use. It does not teach the step of analyzing the data automatically to determine whether at least one data pattern has been identified, as claimed in claim 1.

Furthermore, the system of the NSP reference differs from the present invention as claimed in claim 1 in that the NSP system does not provide a method for the system itself to communicate with the user on the availability of greater functionality when the data pattern has been identified. In the NSP system, the data collection network involves reading information automatically from existing gas or electric meters, retrofitted with radio transmitters that

communicate with the utility using a client/server architecture (page 1, lines 35 to 37). It is not a two-way communication system in that the user does not communicate through an automated meter; some means outside the system has to be used for communication. This is different from a method involving a data processor that collects and analyze data and, based on the analyzed data, communicates to a user on the availability of greater product functionality.

The CDMA reference also lacks the step of analyzing the data automatically to determine whether at least one data pattern has been identified, as claimed in claim 1. In the CDMA reference, the analysis is seemed to be carried out by an operator who handpicks the customers based on their usage pattern. (page 1, lines 35 to 37).

Furthermore, the reference CDMA does not offer greater functionality for an existing function of a product. What it proposes to offer is to convert an analog based product into a completely different digital based product. A person of ordinary skilled in the art would realize that a conversion from an analog telephone to a digital telephone requires a whole new product. Thus, the offer of greater functionality as taught by the CDMA reference is different from the present invention as claimed in claim 1 where the greater functionality is offered to the user to enhance the same product with the original function. It is submitted that the CDMA reference in combination with the NSP reference would not produce the present invention.

Hence, claim 1 is not made obvious by the NSP reference and the CDMA reference either by itself or in combination. Applicant respectfully request withdrawal of the rejection against claim1.

As per claim 2, NSP discloses collecting interval of use data (page 1, lines 27-31).
As per claim 3-5, NSP discloses a computer-based system for determining value-added products and services to be offered to customers based on customer's past usage practices. Although NSP discloses collecting statistical data regarding use of products and services (NSP at page 1, lines 39-42), it does not teach collecting of demographic or geographic data for analysis. However, the Examiner assets that the use of geographic/demographic data is well-known in field of marketing analysis and such would have been an obvious data for the skilled artisan to utilize.

Applicants submit that claims 2 and 3-5, all dependent on claim 1, are unobvious at least for the foregoing reasons given in connection with the NSP reference.

As per claim 6, Although NSP does not teach a threshold at which customers are offered upgraded products, CDMA discloses determining whether a threshold has been exceeded as indicated by usage data such that the user is to be offered communications upgrades (CDMA at page 1, lines 35-37).

Applicants submit that claim 6 as amended is unobvious at least for the foregoing reasons given in connection with the CDMA reference. Furthermore, the CDMA reference does not give any hint that the threshold of any kind was used in handpicking the customers.

As per claim 7, although both NSP and CDMA disclose analysis of product usage data to determine whether a data pattern can be identified. Neither article expressly teaches application of a fuzzy algorithm to the analysis. However, the Examiner asserts that the use of fuzzy algorithm is merely a design choice from among a plurality of know analysis methods.

The application of a fuzzy algorithm is not merely a design choice since neither reference teaches the step of analyzing the data automatically.

As per claim 8, NSP discloses interactively communicating with users (page 1, lines 27-49).
As per claim 9, the Examiner asserts that interactive voice communication is well known in the art and would have been obvious especially in a phone technology communication system.
As per claim 10, the Examiner asserts that computer display, touch screens, and keypads are well known means for communication between computer systems and users that would have been obvious to include in the combination above for communicating and displaying information to the user.

Claims 8, 9, and 10 are unobvious at least for the foregoing reasons given in connection with the NSP reference.

Claim 18 contains limitations addressed in claims 1 and 6 and therefore are rejected under the same rationale.
The limitations of claims 19 and 20 are found in claims 2 and 3, respectively, and they are rejected under the same rationale.
The limitations of claims 22-24 are found in claims 1-3, respectively, and they are rejected for the same reasons.
The limitations of claim 25 are found in claims 1 and 6, and is objected for the same reasons.
The limitations of claims 26-27 are found in claims 2 and 3, respectively, and these claims are objected for the same reasons.

Claims 18, 19, 22-24, and 25-27 are unobvious at least for the foregoing reasons given for their parent claims.

2. Claim 11 is rejected under 35 USC 103(a) as being unpatentable over "NSP to install wireless network meter reading system will consolidate its data collection by installing wireless network meter system" (herein after "NSP") considered with Meyers, "CDMA gets its day in the sun", herein after "CDMA" as applied to claim 1 above, and further in view of Blau (US Patent No. 5,634,101).
As per claim 11, NSP discloses collecting data from a plurality of users. Note page 1, lines 18-22. Collecting user decisions from a plurality of users is not taught by the combined teachings. Blau teaches a method and system for obtaining consumers' responses about certain products or services they use. Note column 3, lines 33 to column 4, line 12 of Blau. It would have been obvious to one of ordinary skill in the art at the time of the invention to introduce the concept of Blau into the combination of NSP and CDMA in order to obtain consumer responses regarding usages of a particular product. Determining when to offer greater

functionality to a user based upon at least group user data and decisions would have been the same as discussed in regard to claim 1 above.

The patent to Blau is directed to a method of obtaining product marketing information from consumers. It is silent as to a method step of determining when to offer greater functionality to a user base upon at least group user data and decision, as claimed in claim 11. This step is also absent from the NSP reference and the CDMA reference. Thus, claim 11 is asserted to be unobvious at least for this reason.

3. Claims 12-13, 15-17, and 21 are rejected under 35 USC 103(a) as being unpatentable over "NSP to install wireless network meter reading system will consolidate its data collection by installing wireless network meter system" (herein after "NSP") considered with Meyers, "CDMA gets its day in the sun", herein after "CDMA" as applied to claim 1 above, and further in view of Thompson et al (US Patent No. 5,335,276).

It is respectfully submitted that claims 12-13, 15-17, and 21 as amended above are patentable for all the foregoing reasons including the reason given in respect to the Examiner's comment 1 in the Office Action. The addition of Thompson et al. to the NSP and CDMA references does not fill the gap to render the pending claims obvious because Thompson et al. merely teaches a communication device. It does not teach the steps of collecting data describing user interaction with the production function, analyzing automatically the data to determine whether at least one data pattern has been identified, and communicating to a user of the personal assistant system an availability of said greater functionality when at least one data pattern has been identified, as claimed in claim12.

As per claim 12, NSP discloses a computer-based system for determining which additional value-added products and/or services should be offered to customers based on those customers' past usage practices. CDMA discloses offering greater cellular telephone communications functionality based on consumer usage patterns. While neither NSP nor CDMA disclose application of usage analysis to telephone personal assistant systems, Thompson teaches simplified upgradability of telephone personal assistant devices such that the devices are customized to each customer's usage (note Thompson at abstract, column 3, lines 21-26 and 36-40 and column 5, lines 59-65). The motivation to modify NSP and CDMA with the personal assistant of Thompson would have been to extend the upgrade offerings of CDMA's cellular network to the actual cellular telephones in use on the network (note Thompson at column 3, line 56 to column 4, line 11). The remaining limitations of claim 12 are found in claim 1, and the remainder of this claim is rejected to for the same reasons.

Thompson et al. teaches a communication device that can provide options without requiring replacement, that can upload or download various application modules, and that can integrate communication functions (column 3, lines 21-26 and 36-40 and column 5, lines 59-65).

However, what it does not teach is the steps of collecting data describing user interaction with the production function, analyzing automatically the data to determine whether at least one data pattern has been identified, and communicating to a user of the personal assistant system an availability of said greater functionality when at least one data pattern has been identified. Thus, the NSP reference and the CDMA reference in view of Thompson et al. do not make the pending claims obvious.

The limitations of claim 13 are found in claims 1 and 6 and therefore is rejected for the same reasons.

The limitations of claim 15 are found in claims 8 and 9 and thus is rejected under a similar reationale.

The limitations of claim 16 are found in claims 1 and 10, and this claim is rejected under a similar rationale.

As per claim 17, CDMA discloses offering greater functionality dependent on usage patterns (page 1, lines 35-37). The Examiner assets that by being eligible for greater functionality, the user by necessity were started at a lower functionality level.

The limitations of claim 21 are found in claims 1, 6 and 12, and is rejected under a similar rationale.

Claims 13, 15, 16, 17, and 21 are asserted to be unobvious at least for the foregoing reasons given for their parent claims.

As stated before, the reference CDMA does not offer greater functionality for an existing function of a product but proposes to convert an analog based product into a completely different digital based product. The reference CDMA does not teach to upgrade the same system. For this reason alone, claim 17 is asserted to be allowable.

4. Claim 14 is rejected under 35 USC 103(a) as being unpatentable over "NSP to install wireless network meter reading system will consolidate its data collection by installing wireless network meter system" (herein after "NSP") considered with Meyers, "CDMA gets its day in the sun", herein after "CDMA" as applied to claim 1 above, and further in view of Blau (US Patent No. 5,,634,101).

As per claim 14, NSP discloses collecting data from a plurality of users. Note page 1, lines 18-22. Collecting user decisions from a plurality of users is not taught by the combined teachings. Blau teaches a method and system for obtaining consumers' responses about certain products or services they use. Note column 3, lines 33 to column 4, line 12 of Blau. It would have been obvious to one of ordinary skill in the art at the time of the invention to introduce the concept of Blau into the combination of NSP and CDMA in order to obtain consumers responses regarding usages of a particular product. Determining when to offer greater functionality to a user based upon at least group user and decisions would have been the same as discussed in regard to claims 12 above.

The patent to Blau is directed to a method of obtaining product marketing information from consumers. It is silent as to a method step of determining when to offer greater functionality to a user base upon at least group user data and decision, as claimed in claim 14.

This step is also absent from the NSP reference and the CDMA reference. Thus, claim 14 is asserted to be unobvious at least for this reason.

Applicants submit that all of the claims are now in condition for allowance, which action is requested. Filed herewith is a Petition for Automatic Extension with the required fee. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 1/29/00

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